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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/638,078

08/14/2000

Fernando Jose Barros Rodrigues da Silva

13137

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03/26/2004

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EXAMINER

CHAVIS, JOHN Q

ART UNIT

PAPER NUMBER

2124

DATE MAILED: 03/26/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/638,078

Applicant(s)

RODRIGUES DA SILVA,
FERNANDO JOSE BARRO

Examiner

John Chavis

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-31 and 33-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-31 and 37-50 and 53 is/are rejected.
- 7) ☒ Claim(s) 33-36, 51 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 27-31 and 32-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims indicate an executive software unit, which is not clearly defined in the specifications or the claims. According to the claims (see for example, claim 27) the feature appears to be merely links between units. The feature of "and between software units of the plurality of software units" appear redundant and therefore it is not clear what is intended. Also, the feature "and an outside of the software ensemble" is not clear because the applicant appears to be initially claiming the ensemble and therefore it is not clear what anything outside of the ensemble would have to do with the ensemble or what specifically is included or excluded. The applicant should further note that unclear features are not entitled patentable weight. In claim 47, no clear antecedent basis is provided for "the software executive" on line 7.

3. Claim 46 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should only reference a preceding claim. See MPEP § 608.01(n). Accordingly, the claim 46 is not been further treated on the merits.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 27-31 and 37-50 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Wold (5,724,589).

Claims

27. A software ensemble stored on a Computer readable medium and Executable by a computer, the software Ensemble comprising:

A plurality of software units, each software unit of said plurality of software units including a method and data;

an executive software unit including links
Between said plurality of software units
And between software units of the
Plurality of software units and an outside
Of the software ensemble.

Wold

See the title and abstract and figs. 1 and 2.

See Wold's software components, (plurality of software units) col. 3 lines 42-65. It is considered inherent in object oriented programming for objects to have both methods and data, see Wold's col. 14 lines 1-17 for some of the methods. The methods (for example, TObject()) and data (for example, color) are also indicated in col. 13 lines 6-20.

See figs. 3, 4 and 7.

In reference to claims 28-29, see the rejection of claim 27 above.

As per claim 30, see col. 4 lines 42-55.

Claim 31 is rejected via col. 4 lines 8-32.

The features of claim 32 are taught via the "runtime" feature in col. 4 lines 56-67.

In reference to claims 37, see col. 3 lines 58-65, which indicates that software units are "context free" and therefore can inherently exist in different locations.

As per claim 38, see col. 4 lines 8-19, which clearly indicates that units are concurrently active and also see the cited portions below for claims 40-42.

Claim 39 is rejected via col. 8-32 and col. 15 lines 32-37.

The features of claim 40 are taught via col. 5 lines 50-67.

In reference to claim 41, see the fig. 2, item 271 and col. 5 lines 50-67.

As per claim 42, see fig. 1-A, item 102 and col. 5 lines 50-67.

Claim 43 is rejected via fig. 7.

The features of claim 44 are taught via col. 11 lines 15-23 and col. 14 lines 15-17.

In reference to claims 45, see col. 8 lines 40-44.

As per claim 46, see col. 9 lines 15-46.

Claim 47 is rejected as claim 27, supra. Wold's pointer is considered to provide for the "output variable" (see fig. 5 and col. 4 lines 8-19) feature claimed.

In reference to claims 48-50 and 53, see the rejections of claim 32.

Allowable Subject Matter

6. Claims 33-36, 51 and 52 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 2124

7. Applicant's arguments with respect to claims 27-31 and 37-50 and 53 have been considered but are not persuasive in view of the teachings of Wold.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Chavis whose telephone number is 703-305-9665. The examiner can normally be reached on 8:30 am-5:00 pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 703-305-9662. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3900.

Jqc
March 19, 2004



JOHN CHAVIS
PATENT EXAMINER
ART UNIT 2124